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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,343	03/29/2004	David Leon	037145-3101	5004
30542 7590 07/30/2008 FOLEY & LARDNER LLP P.O. BOX 80278 SAN DIEGO, CA 92138-0278				
EXAMINER ABRAHAM, ESAW T				
ART UNIT 2112		PAPER NUMBER		
MAIL DATE 07/30/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/813,343

Applicant(s)

LEON ET AL.

Examiner

ESAW T. ABRAHAM

Art Unit

2112

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 April 2008.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 2-8, 10-14, 16, 19 and 21-24 is/are allowed.
6) ☒ Claim(s) 1, 9, 15 and 18 is/are rejected.
7) ☒ Claim(s) 17 and 20 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SF/08)
Paper No(s)/Mail Date 03/18/08
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

1. Applicants' response was received on 04/01/08.
2. Claims 1, 9, 15 and 18 are rejected.
3. Claims 2-8, 10-14, 16, 19, 21-24 remain allowed.

Response to Applicant's argument/Amendment

4. Applicant's argument, see remark, filed on 04/01/08, with respect to the rejection(s) of claim(s) 15-17 and 22 under 101 non-statutory rejection have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made to claims 1, 9, 15 and 18 in view of Wesley et al. (U.S. PN: 6,693,907) "herein after as Wesley"

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S. C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims **1, 9, 15 and 18** are rejected under 35 U.S.C. 102(e) as being anticipated by Wesley et al. (U.S. PN: 6,693,907) "herein after as Wesley.

As per claim 1:

Wesley substantially teaches a method for data repair in a point-to-multipoint communications system (see col. 1, lines 7-10 and col. 2, lines 2-8), the method comprising

transmitting data from a sender to a plurality of receivers via a point-to-multipoint session (see col. 2, lines 2-8 and col. 3, lines 41-46); determining if any expected data was not received; if some expected data was not received, sending a data repair request to the sender requesting that the expected-but-not-received data be resent (see col. 4, lines 12-65 and col. 5, lines 44-55); and retransmitting from the sender all of the requested expected-but-not-received data via the point-to-multipoint session (col. 5, lines 44-55 and col. 6, lines 17-34).

As per claim 9:

Wesley substantially teaches a point-to-multipoint communication system for repairing data (see col. 1, lines 7-10 and col. 2, lines 2-8), the system comprising a sender device for transmitting data via point-to-multipoint communications; a plurality of receivers for receiving data from the sender device (see col. 2, lines 2-8); wherein the sender device is configured to transmit data to the plurality of receivers via a point-to-multipoint session (see col. 2, lines 2-8 and col. 3, lines 41-46); the plurality of receivers are configured to receive data transmitted by the sender device, determine if any expected data was not received, and, if so, send a data repair request back to the sender device requesting that the expected-but-not-received data be resent (see col. 4, lines 12-65 and col. 5, lines 44-55); and the sender device is configured to receive data repair requests from the plurality of receivers and to retransmit all of the requested expected-but-not-received data to the plurality of receivers via the point-to-multipoint session (col. 5, lines 44-55 and col. 6, lines 17-34).

As per claim 15:

Wesley substantially teaches a computer code product embodied on a computer readable medium, the computer code product comprising computer code configured to

transmit data from a sender to a plurality of receivers via a point-to-multipoint session (see col. 1, lines 7-10 and col. 2, lines 2-8); determine if expected data was not received at any of the plurality of receivers; make a data repair request if any expected data was not received at any of the plurality of receivers (see col. 4, lines 12-65 and col. 5, lines 44-55); and retransmit all of the requested expected-but-not-received data to the plurality of receivers via the point-to-multipoint session (col. 5, lines 44-55 and col. 6, lines 17-34).

As per claim 18:

Wesley substantially teaches a sender device for use in a point-to-multipoint communication system, the sender device comprising (see col. 1, lines 7-10 and col. 2, lines 2-8); means for transmitting data to a plurality of receivers via a point-to-multipoint session (see col. 1, lines 7-10 and col. 2, lines 2-8); means for receiving data repair requests from the plurality of receivers requesting expected-but-not-received data (see col. 4, lines 12-65 and col. 5, lines 44-55); means for retransmitting all of the requested expected-but-not-received data via a point-to-multipoint session (col. 5, lines 44-55 and col. 6, lines 17-34).

Allowable subject matter

6. Claims 17 and 20 are objected to as being dependent upon a rejected base claim but would be allowable if rewritten independent from including all of the limitation of the base claim and any intervening claims

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Esaw T. Abraham whose telephone number is (571) 272-3812. The examiner can normally be reached on M-F 8am-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jacques Louis-Jacques can be reached on (571) 272-6962. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/EA/

/Esaw T Abraham/

Examiner, Art Unit 2112

07/22/08